

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF MASSACHUSETTS

GERALD MALONE,
Petitioner,

v.

KATHLEEN M. DENNEHY,
Acting Commissioner of Massachusetts
Department of Corrections,
Respondent.

No. 1:04-CV-10283-RWZ

**MOTION FOR LEAVE TO PROCEED IN *FORMA PAUPERIS*
AND ENLARGE TIME WITHIN WHICH TO FILE AFFIDAVIT AND
SUPPORTING DOCUMENTS IN SUPPORT OF MOTION TO PROCEED IN
*FORMA PAUPERIS***

Now comes, Gerald Malone, the Appellant, in the above-captioned matter and respectfully moves this Honorable Court grant him leave to proceed in *forma pauperis* on his appeal and extend the time for filing the affidavit in support of his motion.

As grounds for his Motion, the Appellant states as follows:

1. The Petitioner is represented by counsel appointed by the Committee for Public Counsel Services.
2. The Petitioner is currently incarcerated at the North Central Correctional Institution at Gardner, Massachusetts, and does not have sufficient funds to pay the filing fee for his appeal before the First Circuit Court of Appeals.
3. This Court has issued a certificate of appealability in this matter.
4. The Petitioner has mailed his account statement as well as financial affidavit to the undersigned counsel on September 25, 2007.
5. The undersigned counsel will promptly file with the Court the Petitioner's affidavit and account statement upon receipt.

6. By his motion to proceed in *forma pauperis*, the Petitioner is only seeking a waiver of the filing fee as counsel has already been provided to him by the Commonwealth of Massachusetts.

Wherefore, the Petitioner, by and through counsel, respectfully requests this Honorable Court to grant him leave to proceed in *forma pauperis* and allow him additional time to file the supporting affidavit and account statement.

Respectfully submitted,
Gerald Malone
By his attorney,

/s/ Derege B. Demissie

Derege B. Demissie
DEMISSIE & CHURCH
929 Massachusetts Avenue, Suite 01
Cambridge, MA 02139
(617) 354 3944

CERTIFICATE OF SERVICE

I hereby certify that this document, filed through the ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on September 26, 2007.

/s/ Derege B. Demissie
Derege B. Demissie